IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.14605 of 1999

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Between:

Mahender Paswan S/o. Late Jaggam Paswan,
R/o CISF Camp. SCCL,

Ramakrishnapuram, Mancherial (Mandal), Dist: Adilabad.

..... PETITIONER

AND

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1 Commandant (CISF), Unit: SCCL : Bellampalli
Adilabad District.
2 Area Commandant (CISF), Camp Ramakrishnapur, Unit Mancherial,
Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction particularly one in the nature of writ of Mandamus by declaring the impugned order passed by the first respondent vide proceedings No.E-38014/CISF/SCCL/AD.I/Promo/99 8272, dated 15-6-99, as illegal, arbitrary, void ab-initio besides violative of Article 14 of the Constitution of India, and violative of Principles of natural justice, and quash the same.

Counsel for the Petitioner: Mr.Y.RAMA RAO

Counsel for Respondents: Smt.A.P.LAKSHMI,SC for Central Govt.

The Court made the following :

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ORAL ORDER:

The grievance of the petitioner is that he was promoted in pursuance of the recommendation of a duly constituted Departmental Promotion Committee convened on 17-9-1998 at CISF unit, SCCL, Bellampalli and by the impugned Proceedings dated 15-6-1999 of the 1st respondent he was sought to be reverted.

According to the petitioner, he was qualified to be promoted to the rank of Assistant Sub-Inspector (Exe.) and in fact, he was promoted to the said rank by Proceedings dated 22-2-1999 of the 1st respondent and he was posted at Camp CISF, Unit Ramakrishnapur under the 2nd respondent. After joining as ASI, he proceeded on leave and when he was at his native place, he was served with the impugned Proceedings through Special Messenger. He was shocked to receive the impugned orders dated 15-6-1999 of the 1st respondent. Though he was promoted as Asst.Sub-Inspector and qualified to be so, issuance of the impugned proceedings is arbitrary and illegal.

A detailed counter affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner. It is stated that the petitioner was promoted from the rank of Head Constable/GD to the rank of ASI/Exe on the basis of faulty recommendation of a duly constituted Departmental Promotion Committee convened on 17-9-1998. While assessing the candidature of the petitioner along with other SC/ST candidates for promotion to the rank of ASI, the DPC failed to follow the instructions regarding reservations in promotion i.e. lesser qualifying marks/lesser standards of evaluation, prescribed by the Department of Personnel and Training vide its letter dated 22-7-1997 in the light of the decision of the Apex Court in **S.VINOD KUMAR v. UNION OF INDIA** {JT 1996(8) 643}. The CISF Headquarters, New Delhi cancelled the DPC convened at SCCL, Bellampalli on 17-9-1998 and directed reversion of the petitioner to his substantive rank of Head Constable/GD from the rank of ASI/Exe. The petitioner was reverted to the post of Head Constable, since the DPC convened on 17-9-1998 had overlooked the existing instructions. According to the learned standing counsel for respondents, it is only a rectification of the mistake committed by the DPC and no injustice was

caused to the petitioner.

Learned counsel for the petitioner has not denied the fact that DPC has committed a mistake on 17-9-1998 and the petitioner was mistakenly promoted. No reply is filed to the averments made in the counter affidavit. The contention of the learned Additional Standing Counsel for Central Government appearing for respondents is based on the documentary evidence and instructions issued by the Central Government from time to time as to the consideration of the candidature of the candidates by the DPC. Therefore, the impugned order purported to have been made reverting the petitioner on detecting the mistake committed by the DPC cannot be faulted with. Be that as it may, it is brought to the notice of this Court that the petitioner was again promoted to the post of ASI on 10-2-2000 as per his turn and eligibility. Therefore, the writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

03-9-2004

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Commandant (CISF), Unit: SCCL : Bellampalli
Adilabad District.
2 Area Commandant (CISF), Camp Ramakrishnapur, Unit Mancherial,
Adilabad District.

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